



14927 S. Caenen Ln. Olathe, KS 66062  
Phone: 913-530-9048 Fax: 913-897-9624

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FCC Mail Room

Marlene H Dortch, Secretary  
FCC  
445 12<sup>th</sup> St.  
Washington, DC 20554

## Ex Parte Comment In the Matter of Rates for Interstate Inmate Calling Services WC Docket No. 12-375

Excerpts from Protocall's Mandatory Data Collection submittal exposed in paragraph 73 of the Commission's Second Order were used to unfairly defame the industry and Protocall in particular. This was done in an obviously desperate attempt by the writer to support an assertion.

The writer of paragraph 73 made claims about our Company that are misleading and incorrect. First, the writer related our own characterization of our 2014 projections as "No evidence. Its [sic] just a guess." The writer did it in a way that implied negligence or deception. Our projection of growth in 2014 necessarily and largely hinged on how many accounts we would win and lose during the last two quarters of the year. We could have grown 1%, 80% or anywhere in between. What evidence would we have as to where in this range where we would fall in advance? We could only make an educated guess. There was no evidence to present.

The FCC's revenues and expenses are more stable and predictable year-to-year. Its numbers are large, reducing variability. Its numbers also are not driven by quarterly changes in customer demand and customer preferences, further reducing variability. But in the competitive world, projections are guesses. They are educated guesses fraught with assumptions. In the end, our estimate or guess was pretty accurate. We thought we did a good job there.

The writer follows with the blatant statement "This information forces us to call into question the accuracy of this provider's data and how rigorous this provider was in preparing its Mandatory Data Collection response." So the writer makes repeated efforts to deliberately paint our Company as deceptive and negligent.

Secondly, the writer referenced our statement in the Data Collection D&J that we could only estimate the breakdown of calls by call type by inferring from what limited data we had. The fact that we were not able to slice the data the way the FCC wanted was because 1) our call system has a unique design which prevented us from doing so and 2) we do not have the

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accounting resources of our conglomerate competitors. The writer states that we "did not actually calculate the percentage of traffic for each service". This again implies deception and negligence on the part of Protocall, if not incompetence. We *did actually* make calculations. We were forthcoming about the limitations of our data and the writer used that against us to make damaging assertions about our Company's diligence.

We spent two man-months preparing the Data Collection submittal. That's a substantial proportion of our Company's total staff time that would otherwise have been used to help our law enforcement clients protect the public and address the issues of inmates' families. We would have been better off to not have submitted data at all. We know some of our competitors that did just that. They look like the smart ones for not offering data in good faith that could be turned to their disadvantage.

The writer's claim that our data should call into question the data's accuracy as well as how rigorous we were in preparing our Mandatory Data Collection response, even if it was true, does not directly support the assertion that providers fully stated or overstated costs. Inaccurate data could just as well understate costs as overstate them. So the reader must conclude that the writer had virtually no evidence for that assertion.

And to use one new and still very small company to generalize to other companies in our industry further calls into question the writer's credibility.

In summary, the desperate attempt by the writer of paragraph 73 to substantiate a point not only failed to directly substantiate the leading assertion of that paragraph. It also did damage to our Company. And it compromised our trust in the FCC to be objective, reasonable and keep our information in confidence, or at a minimum to present it fairly.

We don't expect an apology. But we request that paragraph 73 be re-written or deleted altogether.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "David Lindgren".

David Lindgren  
President